

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 97 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GANGABEN, WD/O RANCHHODBHAI

Versus

THE COMPETENT AUTHORITY, AND

Appearance:

MR RR MARSHALL for Petitioner
Mr. A.J.Desai, AGP for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 12/04/99

ORAL JUDGEMENT

The petitioner challenges the order dated 25.11.86 passed by the Urban Land Tribunal and Ex-Officio Secretary to Government, Revenue Department refusing to entertain the appeal of the petitioner filed under section 33 of the Urban Land (Ceiling and Regulations) Act 1976 (hereinafter referred to as the said Act) on the ground that it was time barred.

#. According to the petitioner she had vacant land and had filled in form no.1 before the respondent no.1 who made an order under section 8(4) of the said on 30.10.82 which was challenged in appeal. The said appeal was allowed by the Tribunal. Later on respondent no.1 again passed an order under section 8(4) of the Act on 25.1.86 and declared certain lands as excess vacant land. According to the petitioner, she came to know about that order only when notice under section 10(5) was served on her. She was 65 years of age and sick and therefore, could not take immediate action of filing an appeal. Since there was a delay in filing of the appeal, application for condonation of delay was made pointing out the reasons which caused the delay. Hearing of the application for condoning of delay was fixed on 25.11.86, on which date, her advocate sent a telegram praying for time as he could not remain present because of lawyers' strike and because the petitioner was sick. However, instead of adjourning the matter the respondent passed the impugned order refusing to condone the delay and dismissed the appeal on that ground.

#. It does appear that an adjournment was sought by the learned counsel who filed the appeal on behalf of the appellant. The appellate authority did not find the ground for adjournment to be reasonable. A telegram was sent to the appellate authority by the learned advocate that he could not remain present because of the lawyers' strike and that the petitioner was sick. It was therefore a valid reason for the appellate authority to adjourn the matter in order to hear the appellant's advocate on the application for condonation of delay. There was therefore, a denial of adequate opportunity of hearing to the appellant when the appellate authority proceeded with the matter and rejected the application for condonation of delay without hearing the appellant and her advocate. The impugned decision is therefore, set aside with a direction that the application for condonation of delay be heard on merits. Rule is made absolute accordingly with no order as to costs.